

REMARKS
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***Comments on Amendments After Final***

Applicants respectfully request reconsideration and allowance of this application in view of the amendments above and the following comments.

At the outset, Applicants wish to address the showing required under 37 CFR § 1.116(a) regarding why the amendments above are necessary and were not presented earlier. According to MPEP 714.13 (Amendments After Final Rejection or Action, Procedure Followed - Action by Examiner), there are four grounds (cited as (A)-(D)) upon which the examiner may elect not to enter the applicants amendment. Each ground is addressed below:

(A) The claims as amended represent a narrower embodiment of the applicants originally claimed invention (applicants reserve the right to pursue broader scope of the original claims in continuing application) and as such it is believed that the amended claims are now in condition for allowance or at the very least simplifies the issues for appeal.

Claims 27 and 34 have been amended to include the limitations of former claims 29 and 36 respectively which had been indicated to represent allowable subject matter by the examiner in the final rejection.

Claim 33 has been amended to address the examiner's objection.

(B) It is believed that no new matter has been entered.

(C) The amended claims represent a narrower embodiment of the applicants invention as claimed prior to the issuance of the examiner's final rejection and as such no new issues are raised which require further consideration or search.

(D) The amendment does not present any additional claims.

In view of the foregoing, Applicants respectfully request that the Examiner enter and consider the amendments above.

***Response to Objection***

It is believed that the amendment to claim 33 addresses the examiner's objection and that the objection can be withdrawn.

***35 U.S.C. 102(b) rejection***

Claims 27, 28, 34, 35 and 40-42 were rejected as being anticipated by Pulkinnen (U.S. Patent 4,695,188). In the interest of compact prosecution, claims 27 and 34 have been amended to include the limitations of claims 29 and 36 respectively which was indicated as being allowable and as such this rejection is rendered moot.

The applicants' reserve the right to pursue the scope of claims 27, 28, 34, 35 and 40-42 prior to the amendment in a divisional application as it is believed that Pulkinnen does not meet the "every element" and "in as complete a detail as the applicants' claim" standard for anticipation.

**35 U.S.C. 103(a) rejection**

Claims 26, 30-33 and 37-39 were rejected as being obvious over Pulkinnen (U.S. Patent 4,695,188) in view of Dischö et al. (WO 98/24738). With the amendment to claims 27 and 34, it is believed that the balance of this rejection now only applies to claim 26.

In the examiner's "Response to Arguments" regarding Pulkinnen, the examiner stated "The applicant alleges that the structure disclosed by Pulkinnen teaches to keep water in. The examiner fails to see such language in the Pulkinnen reference." The applicants' point out that the title of Pulkinnen's invention is "Lined Rock Cistern or Tunnel". The term "cistern" from The American College Dictionary (1967) is defined as "a reservoir, a tank, or vessel *for holding water or other liquid.*" Providing further evidence that Pulkinnen's invention is directed toward keeping substances in rather than keeping them out is Pulkinnen's own admission on col. 2, lines 29-32 - "Applications of the present invention are pressurized stores of natural gas under pressure, aviation kerosene stores, grain silos and stores and pressure tanks for various toxic substances."

In addition, despite the examiner's recitation of *In re Fine* and *In re Jones*, there is no recitation of the examiner's motivation for combining the teachings of Dischö et al. with that of Pulkinnen which comes from the prior art or the state of the art itself, i.e. the motivational statement is a hindsight reconstruction by the examiner.

The standard establishing a *prima facie* case of obviousness requires a consideration of the invention and references as a whole and determine what would have been obvious to one of ordinary skill in the art at the time the invention was made having the references before him but without the applicants' claims to provide a roadmap. Simply put, if the applicants claims were not before one of ordinary skill in the art and the Pulkinnen and Dischö et al. references were placed before the artisan, what would have been the motivation or direction to combine the references to arrive at the applicants claims?

The applicants' position remains essentially unchanged from the position stated in the response

dated 8 September 2003 and for the sake of brevity, the arguments presented there are to be considered repeated here.

**Authorization for Examiner's Amendment**

Given the prior prosecution history of this application, applicants are wary of voluntarily canceling claims. However, if after consideration of the applicants' arguments for claim 26, claim 26 is the only claim which prevents allowability of the remaining claims, the applicants authorize the examiner to cancel claim 26 provided that the reasons for maintaining the rejection over claim 26 is provided in the "Reasons for Allowance".

**Closing**

Applicants believe that the foregoing constitutes a bona fide response to all outstanding objections and rejections.

Applicants also believe that this application is in condition for allowance. However, should any issue(s) of a minor nature remain, the Examiner is respectfully requested to telephone the undersigned at telephone number (212) 808-0700 so that the issue(s) might be promptly resolved.

Respectfully submitted,

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**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that the foregoing Amendment under 37 CFR § 1.116 (10 pages total) is being facsimile transmitted to the United States Patent and Trademark Office on the date indicated below:

Date: 14 January 2004

By: Agata Glinska  
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## cirrhosis

**cirrho-sis** (sī'rō/sis), *n.* *Pathol.* a disease of the liver characterized by increase of connective tissue and alteration in gross and microscopic make-up. [*t. NL. f. m.s. Gk. kīrhōs tawny + -osis -osis*] —*cirrho-sis* (sī'rō/sis), *adj.*

**cirriped** (sī'rī/pēd), *n.* 1. any of the *Cirripedia*, an order or group of crustaceans, typically having slender legs bearing bristles used in gathering food. —*adj.* 2. having legs like cirri. 3. pertaining to the *Cirripedia*. [*t. NL: m. a. Cirripedia, pl.; f. cirri -cirri- + -peda* (footed)]

**cirro-**, a combining form of cirrus.

**cirro-cumulus** (sī'rō/kū'myūlūs), *n.* *Meteorol.* a cloud of high altitude, consisting of small fleecy balls or flakes, often in rows or ripples.

**cirrose** (sī'rō/sē), *adj.* 1. having a cirrus or cirri. 2. resembling cirri. 3. *Meteorol.* of the nature of cirrus clouds. Also, *cir-ro-sus* (sī'rō/sūs).

**cirro-stratus** (sī'rō/s'trātūs), *n.* *Meteorol.* a high veil-like cloud or sheet of haze, often giving rise to halos around the sun and moon, sometimes very thin and only slightly whitening the blue of the sky. —*cir-ro-stratus*, *adj.*

**cirrus** (sī'rūs), *n.* *pl. cirri* (sī'rī). 1. *Bot.* a tendril. 2. *Zool.* a filament or slender appendage serving as a barbed, tentacle, foot, arm, etc. 3. *Meteorol.* a variety of cloud having a thin, fleecy or filamentous appearance, normally occurring at great altitudes and consisting of minute ice crystals. [*t. L: curl, twist, fringe*]

**cirroid** (sī'rōid), *adj.* variolike; varicose. [*t. Gk: m.s. kīrōidēs*]

**cis-**, a prefix denoting relative nearness (this side of) applied to time as well as space, as in *cisalpine*. Cf. *citra-*. [*t. L: prefix use of cis, prep.*]

**cis-alpine** (sī'sāl/pīn, -pīn), *adj.* on this (the Roman or south) side of the Alps.

**cis-atlantic** (sī'sat/lan'tīk), *adj.* on this (the speaker's or writer's) side of the Atlantic.

**cis-caucasia** (sī's/kā'kās/zhā, -zhā), *n.* that part of Caucasia north of the Caucasus Mountains.

**cis-co** (sī'skō), *n.* *pl. -coes, -coe.* *U.S.* any of several species of whitish of the genus *Leucichthys*, esp. *L. ariad*, the lake herring of the Great Lakes. [*t. N Amer. Ind.*]

**cis-montane** (sī'smōn'tēn), *adj.* on this (esp. the north) side of the mountains.

**cis-padane** (sī'spō'dān, -sēp/dān), *adj.* on this (the Roman or south) side of the river Po. [*t. cis- + m.s. Padanus of the Po River*]

**cisoid** (sī'sōid), *Geom.* —*n.* 1. a curve having a cusp at the origin and a point of inflection at infinity. —*adj.* 2. included between the concave sides of two intersecting curves (opposed to *stereoid*): a *cisoid angle*. [*t. Gk: m.s. kīssōidēs ivy-like*]

**cist** (sīst), *n.* *Cist.* *Antiq.* a box or chest, esp. for sacred utensils. [*t. L: s. cista, t. Gk: m. kistē cistis*]

**cist** (sīst), *n.* a prehistoric scaphoidal tomb or casket. [*t. Welsh, t. L: c. cista. See cast*]

**cis-ta-coene** (sī'stā'shōn), *adj.* belonging to the *Cistaceae*, or rockrose family of plants. [*t. Gk. kīstos rockrose + -ta-coene*]

**Cistercian** (sī'stēr'shān), *n.* 1. a member of an order of monks and nuns founded in 1098 at Cîteaux, near Dijon, France, under the rule of St. Benedict. —*adj.* 2. belonging to this order.

**Cistercian Rule**, an adaptation of the Benedictine Rule stressing contemplation and extreme asceticism.

**cistern** (sī'stēr), *n.* 1. a reservoir, tank, or vessel for holding water or other liquid. 2. a reservoir or receptacle of some natural fluid of the body. [*t. E: m. cisterna, der. cista box*]

**cit**, 1. citation. 2. cited. 3. citizen.

**cit-a-del** (sī'tā'del, -dēl), *n.* 1. a fortress in or near a city, intended to keep the inhabitants in subjection, or, in a siege, to form a final point of defense. 2. any strongly fortified place; a stronghold. 3. a heavily armored structure on a warship. [*t. F: m. cittadelle, t. It: m. cittadella, der. citta city*]

**ci-ta-tion** (sī'tā'shān), *n.* 1. act of citing or quoting. 2. the quoting of a passage, book, author, etc.; a reference to an authority or a precedent. 3. a passage cited; a quotation. 4. mention or enumeration. 5. call or summons, esp. to appear in court. 6. a document containing such a summons. 7. *Mil.* mention of a soldier or unit, in orders, usually for gallantry: *Presidential citation*. [*ME citation, t. L: m.s. citatio*] —*ci-ta-to-ry* (sī'tā'tōrī), *adj.*

**cite** (sīt), *v.t.* cited, citing. 1. to quote (a passage, book, author, etc.), esp. as an authority. 2. to mention in support, proof, or confirmation; refer to as an example. 3. to summon officially or authoritatively to appear in court. 4. to summon or call; rouse to action: *cited to the field of battle*. 5. to call to mind; mention: *citing my own praise*. 6. *Mil.* to mention (a soldier, unit, etc.) in orders, as for gallantry. [*late ME, t. L: m. citare, freq. of citā, cīre, move, excite, call*] —*cit-a-ble*, *cit-a-ble*, *adj.*

**cithara** (sīth'ārā), *n.* *kithara*. [*L form of kithara*]

**cith-er** (sīth'or), *n.* *cithern*. Also, *cith-ern* (sīth'ern). [*t. L: m.s. cithara cithara*]

**citied** (sītīd), *adj.* 1. occupied by a city or cities.

2. formed into or like a city.

b., blood of; blended; c., cognate with; d., dialect, dialectal; der., derived from; f., formed from; g., going back to; m., modification of; r., replacing; s., stem of; t., taken from; ? perhaps. See the full key on inside cover.

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## Ciudad Juarez

**cit-i-fied** (sīt'ifīd), *adj.* having city habits, fashions, etc.

**cit-i-zen** (sīt'ēzən, -zən), *n.* 1. a member, native or naturalized, of a state or nation (as distinguished from alien). 2. a person owing allegiance to a government and entitled to its protection. 3. an inhabitant of a city or town, esp. one entitled to its privileges or franchises. 4. an inhabitant of denizen. 5. a civilian (as distinguished from a soldier, police officer, etc.). [*ME citizen, t. AF, var. of OF cītein, der. cīte cirt*] —*cit-i-zen-ess* (sīt'ēzən'is, -sən'is), *n. fem.*

**citizen of the world**, a person who is concerned about all nations, not just his own.

**cit-i-zen-ry** (sīt'ēzən'rī, -sən-), *n.* *pl. -ries.* citizens collectively.

**cit-i-zen-ship** (sīt'ēzən'shīp, -sən-), *n.* the status of a citizen, with its rights and duties.

**cit-ole** (sīt'ōl, sīt'ōl), *n.* *cithern*.

**citra-**, a prefix synonymous with *cis-*. [*t. L: repr. citā, adv. and prep. akin to cis. See cis-*]

**cit-ral** (sīt'rāl), *n.* a liquid aldehyde,  $C_6H_8CRO$ , with a strong lemonlike odor, obtained from the oils of lemon, orange, etc., used in perfumery. [*f. citra(us) + AL(citrone)*]

**cit-rate** (sīt'rāt, sīt'rāt), *n.* *Chem.* a salt or ester of citric acid.

**cit-ro-nus** (sīt'rō'nus), *adj.* lemon-yellow; greenish-yellow. [*t. L: m. citreus of the citron tree*]

**cit-ric acid** (sīt'rīk), *Chem.* an acid,  $C_6H_8O_7 \cdot H_2O$ , contained in many fruits, especially in lemons and lemons. [*f. a. L citrus citron tree + -ic*]

**cit-rin** (sīt'rīn), *n.* *Biochem.* vitamin P.

**cit-rine** (sīt'rīn), *adj.* 1. pale-yellow; lemon-colored. —*n.* 2. a pellucid yellow variety of quartz. [*ME, t. F: m. citrin, der. L citrus citron tree*]

**cit-ron** (sīt'rōn), *n.* 1. a pale-yellow fruit resembling the lemon but larger and with thicker rind, borne by a small tree or large bush. *Citrus medica*, allied to the lemon and lime. 2. the tree itself. 3. the rind of the fruit, candied or preserved. [*t. F: t. L: m. citrons, der. L citrus citron tree*]

**cit-ron-el-la** (sīt'rōn'el'ā), *n.* a fragrant grass, *Andropogon nardus*, of southern Asia, cultivated as the source of an oil (citronella oil) used in making liniment, perfume, and soap. [*t. NL; named from its citronlike odor*]

**cit-ron-el-lal** (sīt'rōn'el'lāl), *n.* a colorless, liquid aldehyde,  $C_6H_8CRO$ , found in essential oils, and used as a flavoring agent and in the perfume industry.

**citron melon**, *U.S.* a round, hard-fleshed watermelon. *Citrullus vulgaris*, var. *citrifolius*, used for preserving.

**citron wood**, 1. the wood of the citron. 2. the wood of the sandarac.

**cit-rus** (sīt'rəs), *n.* 1. any tree or shrub of the rutaceous genus *Citrus*, which includes the citron, lemon, lime, orange, grapefruit, etc. —*adj.* 2. Also, *cit'rus*, of or pertaining to such trees or shrubs: *citrus fruit*. [*t. L*]

**cit-tern** (sīt'tēr), *n.* an old musical instrument, related to the guitar, having a flat pear-shaped soundbox and wire strings. Also, *cith-ern*, *cithern*, *cithern*, *cithern*, *cithern*. [*n. L cithara cithara and cithern*]

**cit-y** (sīt'ī), *n.* *pl. cities.* 1. a large or important town. 2. *U.S.* an incorporated municipality, usually governed by a mayor and a board of aldermen or councilmen. 3. *Canada.* a municipality of high rank, usually based on population. 4. *Brit.* a borough, usually the seat of a bishop, upon which the dignity of the title has been conferred by the Crown. 5. the City, the part of London, England, in which the commercial and financial interests are chiefly centered. 6. *city-state*. 7. the inhabitants of a city collectively. [*ME cīte, t. OF, g. L cīteas citizenship, the state, a city*] —*Syn.* 1. See community.

**city editor**, 1. *U.S.* the editor in charge of local news. 2. *Brit.* the editor in charge of the financial and commercial news.

**city father**, one of the officials and prominent citizens of a city.

**city hall**, the administration building of a city government.

**city man**, *Brit.* a financier; a person employed in the banking establishments of the City (def. 5). Also, *City man*.

**city manager**, a person not publicly elected but appointed by a city council to manage a city.

**City of God**, heaven.

**City of Seven Hills**, Rome.

**city planning**, public control of the physical development of a city, by means of a plan regulating street layout, locations of buildings, etc.

**cit-y-state** (sīt'ī'stāt), *n.* a sovereign state consisting of an autonomous city with its dependencies.

**Ciudad Bo-lí-var** (sī'dād' bō'lē'vār), a city in E Venezuela; a port on the Orinoco. 31,009 (1950).

**Ciudad Juá-rez** (sī'dād' hwa'réz), a city in N Mexico, across the Rio Grande from El Paso, Texas. 121,912 (est. 1951).



Woman playing a cithern

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